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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/809,315

03/24/2004

David M. Durham

42P19299

6493

8791

7590

03/17/2008

BLAKELY SOKOLOFF TAYLOR & ZAFMAN
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

EXAMINER

SCHMIDT, KARL L

ART UNIT

PAPER NUMBER

2139

MAIL DATE

DELIVERY MODE

03/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<p align="center">Advisory Action Before the Filing of an Appeal Brief</p>	<p>Application No. 10/809,315</p>	<p>Applicant(s) DURHAM ET AL.</p>	
	<p>Examiner KARI L. SCHMIDT</p>	<p>Art Unit 2139</p>	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-38.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Matthew Heneghan/
Primary Examiner, Art Unit 2139

Continuation of 11. does NOT place the application in condition for allowance because: With respect to the applicant's argues that Baldwin does not disclose "not directly accessible to a host processor on the client." The examiner disagrees for the following reasons. The examiner notes as defined by Webster's II New Riverside dictionary the term accessible is defined as "easily obtainable." Based of the definition the examiner notes that under the normal mode of operation the processor can not obtain cryptographic information that is stored (see at least, [0067], [0073], [0085], and [0024]). Therefore under the broadest reasonable interpretation the host processor can not easily obtain cryptographic information that is stored. Further for clarification the examiner notes that only under a restricted mode of operation does the host processor have access to this information which is further noted as a separate state in which the CPU does in fact perform differently (e.g. acts differently as argued by the applicant). However with the respect of the applicant's arguments regarding different states of the host processor the examiner notes that Baldwin further teaches that the CryptoEngine does not even rely on the host processor (see at least, [0012]). Baldwin states that the CryptoEngine can be software only and does not even run in a restricted software mode as taught in an different embodiment (see at least, [0100]; the examiner notes the host processor doesn't have access to the CryptoEngine). The examiner notes that Baldwin discloses a DMK system in which the software only CryptoEngine relies on threshold secret splitting scheme that uses multiple machine identifying metrics (e.g. metrics's are noted as hardware options in the machine) (see at least, [0102]). This software based version does not incorporate the host processor allowing access it is stored and doesn't not allow for key exposure (see at least, [0103]). Therefore both embodiments the restricted host processor and the software based CryptoEngine read on the applicant's invention. Further the examiner notes that Baldwin states that embodiments can be arranged and devised to those of ordinary skill in the art (see at least, [0775]), therefore the examiner notes that these embodiments can be interchanged and still read on the claimed inversion. Therefore this argument is not persuasive.